

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA

3 RAM SING,

4 Plaintiff,

3:18-cv-00406-MMD-CBC

5 v.

6 **SCREENING ORDER**

7 MINERAL COUNTY,

8 Defendant.

9 Before the Court is Plaintiff Ram Sing's ("Sing"), application to proceed *in forma*  
10 *pauperis* (ECF No. 1), and his *pro se* civil rights complaint (ECF No. 1-1). For the reasons  
11 stated below, the Court grants Sing's *in forma pauperis* application, but dismisses the  
12 complaint without prejudice, with leave to amend, for failure to state a claim.

13 **I. *IN FORMA PAUPERIS* APPLICATION**

14 A person may be granted permission to proceed *in forma pauperis* ("IFP") if the  
15 person "submits an affidavit that includes a statement of all assets such [person] possesses  
16 [and] that the person is unable pay such fees or give security therefore. Such affidavit shall  
17 state the nature of the action, defense or appeal and affiant's belief that the person is entitled  
18 to redress." 28 U.S.C. § 1915(a)(1); *Lopez v. Smith*, 203 F.3d 1122, 1129 (9th Cir. 2000)  
19 (en banc) (stating 28 U.S.C. § 1915 applies to all actions filed IFP, not just prisoner actions).

20 The Local Rules of Practice for the District of Nevada provide: "Any person who is  
21 unable to prepay the fees in a civil case may apply to the court for authority to proceed [IFP].  
22 The application must be made on the form provided by the court and must include a financial  
23 affidavit disclosing the applicant's income, assets, expenses, and liabilities." LSR 1-1.

24 "[T]he supporting affidavit [must] state the facts as to [the] affiant's poverty with some  
25 particularity, definiteness and certainty." *U.S. v. McQuade*, 647 F.2d 938, 940 (9th Cir.  
26 1981) (quotation marks and citation omitted). A litigant need not "be absolutely destitute to  
27

1 enjoy the benefits of the statute.” *Adkins v. E.I. Du Pont de Nemours & Co.*, 335 U.S. 331,  
2 339 (1948).

3 A review of the application to proceed IFP reveals Sing cannot pay the filing fee;  
4 therefore, the Court grants the application.

## 5 **II. SCREENING STANDARD**

6 Upon granting a request to proceed *in forma pauperis*, a court must additionally  
7 screen a complaint pursuant to 28 U.S.C. §1915. Specifically, federal courts are given the  
8 authority to dismiss a case if the action “(i) is frivolous or malicious; (ii) fails to state a claim  
9 upon which relief may be granted; or (iii) seeks monetary relief against a defendant who is  
10 immune from such relief.” 28 U.S.C. § 1915(e)(2)(B)(i)-(iii). Dismissal of a complaint for  
11 failure to state a claim upon which relief may be granted is provided for in Federal Rule of  
12 Civil Procedure 12(b)(6), and this Court applies the same standard under Section 1915(e)(2)  
13 when reviewing the adequacy of a complaint or amended complaint. *See Hamilton v.*  
14 *Brown*, 630 F.3d 889, 892-93 (9th Cir. 2011). When the Court reviews a complaint under  
15 this standard, it accepts as true all the plaintiff’s allegations and construes the complaint in  
16 the light most favorable to the plaintiff. *Chubb Custom Ins. Co. v. Space Systems/Loral Inc.*,  
17 710 F.3d 946, 956 (9th Cir. 2013). The Court takes particular care when reviewing the  
18 pleadings of a *pro se* party. In this instance, a more forgiving standard applies to litigants  
19 not represented by counsel. *Hebbe v. Pliler*, 627 F.3d 338, 341-42 (9th Cir. 2010). This  
20 Court is to “construe *pro se* filings liberally . . . and to ‘afford the petitioner the benefit of any  
21 doubt.’” *Id.*

22 Although the standard is broad, it is not limitless. Despite the leniency afforded to  
23 *pro se* plaintiffs, the Court need not accept as true conclusory allegations, unwarranted  
24 deductions, or unreasonable inferences. *Cholla Ready Mix, Inc. v. Civish*, 382 F.3d 969,  
25 973 (9th Cir. 2004). Further, the complaint must contain more than a “formulaic recitation  
26 of the elements of a cause of action;” it must contain factual allegations sufficient to “raise a  
27 right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544,

1 555, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007). Stated differently, the complaint must allege  
2 sufficient facts to state a claim “that is plausible on its face.” *Ashcroft v. Iqbal*, 556 U.S. 662,  
3 678, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009) (citing *Twombly*, 550 U.S. at 555).

### 4 **III. SCREENING OF COMPLAINT**

5 In his complaint, Sing sues Defendant Mineral County of the State of Nevada  
6 and “all its employees,” and alleges the following: In 2014, Sing had a multi-million-dollar  
7 business located at 4051 Highway 95 S., Schurz, Nevada (the “Subject Property”). (ECF  
8 No. 1-1 at 1). The Subject Property is within the boundary of the Walker River Indian  
9 Reservation and is therefore a part of Indian Country. (*Id.*) State officials have no power in  
10 Indian Country. (*Id.*) On or about September 2, 2014, Defendants illegally raided the subject  
11 property and seized personal property. (*Id.*) The seizure constituted grand theft, robbery,  
12 conspiracy, abuse of power, and other serious crimes. (*Id.*) Due to the acts of the  
13 Defendants, Sing is unable to do any business. (*Id.*) Defendants' actions caused damages  
14 of more than \$500,000,000. (*Id.*) Sing brings this suit for damages and for “deprivation of  
15 property rights under the United States codes.” (*Id.* at 2). Sing also seeks a declaration that  
16 “the State Laws do not apply at the subject property.” (*Id.*)

17 The only named defendant in Sing’s lawsuit is Mineral County. (See ECF No. 1-1 at  
18 1). A municipality may be found liable under 42 U.S.C. § 1983 only where the municipality  
19 itself causes the violation at issue. *City of Canton, Ohio v. Harris*, 489 U.S. 378, 385 (1989)  
20 (citing *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978)). As explained  
21 by the Ninth Circuit, a litigant may recover from a municipality under § 1983 on one of three  
22 theories of municipal liability. *Clouthier v. Cnty. of Contra Costa*, 591 F.3d 1232, 1249 (9th  
23 Cir. 2010). “First, a local government may be held liable ‘when implementation of its official  
24 policies or established customs inflicts the constitutional injury.” *Id.* (quoting *Monell*, 436  
25 U.S. at 708 (Powell, J. concurring)). “Second, under certain circumstances, a local  
26 government may be held liable under § 1983 for acts of omission, when such omissions  
27 amount to the local government’s own official policy.” *Id.* “Third, a local government may

1 be held liable under § 1983 when ‘the individual who committed the constitutional tort was  
2 an official with final policy-making authority’ or such an official ‘ratified a subordinate’s  
3 unconstitutional decision or action and the basis for it.’” *Id.* at 1250 (quoting *Gillette v.*  
4 *Delmore*, 979 F.2d 1342 1346-47 (9th Cir. 1992)). “Official municipal policy includes the  
5 decisions of a government’s lawmakers, the acts of its policymaking officials, and practices  
6 so persistent and widespread as to practically have the force of law.” *See Connick v.*  
7 *Thompson*, 563 U.S. 51, 61 (2011). Municipalities are not vicariously liable under § 1983  
8 for their employees' actions. *Id.* at 60.

9 At this time, Sing fails to state a colorable claim against Mineral County. Sing cannot  
10 hold Mineral County liable solely on a *respondeat superior* theory. *Monell*, 436 U.S. at 691.  
11 Sing may bring a constitutional claim against individual officers acting under color of law. *Id.*  
12 at 692. Sing may also bring constitutional claims against Mineral County if he can allege  
13 facts showing that his harm was the result of an official municipal policy of Mineral County.  
14 Accordingly, the Court gives Sing leave to amend his complaint against Mineral County for  
15 violations of his civil rights. Upon amendment, Sing must allege specific facts that would  
16 make his claim plausible.

#### 17 **IV. CONCLUSION**

18 For the reasons articulated above, **IT IS ORDERED** that Sing’s application to proceed  
19 *in forma pauperis* (ECF No. 1) is **GRANTED**;

20 **IT IS FURTHER ORDERED** that the Clerk **FILE** Sing's complaint (ECF No. 1-1);

21 **IT IS FURTHER ORDERED** that the complaint (ECF No. 1-1) is **DISMISSED**  
22 **WITHOUT PREJUDICE, WITH LEAVE TO AMEND**;

23 **IT IS FURTHER ORDERED** that, if Sing chooses to file an amended complaint curing  
24 the deficiencies of his complaint, as outlined in this order, Sing shall file the amended  
25 complaint within 30 days from the date of entry of this order; and

26 //

27 //

**IT IS FURTHER ORDERED** that, if Sing fails to timely file an amended complaint that addresses the deficiencies noted in this Order, it may result in a recommendation for dismissal with prejudice of the complaint.

**IT IS SO ORDERED.**

**DATED:** August 14, 2019.

  
UNITED STATES MAGISTRATE JUDGE